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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

R. ALEXANDER ACOSTA, Secretary of Labor, United States Department of Labor,

Case No.: 2:18-cv-01185

Petitioner,

V.

LOCAL 872, LABORERS
INTERNATIONAL UNION OF
NORTH AMERICA.

**SECRETARY OF LABOR'S PETITION
TO ENFORCE ADMINISTRATIVE
SUBPOENA *DUCES TECUM* ISSUED
BY THE OFFICE OF LABOR
MANAGEMENT STANDARDS, U.S.
DEPARTMENT OF LABOR**

Respondent.

R. Alexander Acosta, Secretary of Labor, United States Department of Labor (the “Petitioner” or “Secretary”), hereby alleges as follows:

PRELIMINARY STATEMENT

1. The Secretary brings this Petition against Respondent Local 872, Laborers International Union of North America (“Local 872”) to enforce an administrative subpoena *duces tecum* (“Subpoena”) served on Local 872, on May 16, 2018, by the Office of Labor-Management Standards, U.S. Department of Labor (“OLMS” or “Agency”). The Subpoena was issued in the course of the Agency’s investigation

1 conducted under Section 601 of the Labor-Management Reporting and Disclosure Act of
 2 1959, 29 U.S.C. § 521 (“LMRDA”) of four union member administrative complaints
 3 protesting the nomination process for Local 872’s May 31, 2018 unsupervised election
 4 of officers.

5 **JURISDICTION AND VENUE**

6 2. Local 872 is a “labor organization” within the meaning of Sections 3(i) and
 7 (j) of the LMRDA, 29 U.S.C. § 402(i) and (j). Local 872 is subject to the coverage of
 8 the LMRDA under Sections 3(d) and 601(a) of the LMRDA, 29 U.S.C. §§ 402(d) and
 9 521(a). Local 872’s principal place of business is 2345 Red Rock Street, Las Vegas,
 10 Nevada 89146.

11 3. The Court has subject matter jurisdiction over this Petition under Sections 9
 12 and 10 of the Federal Trade Commission Act, 15 U.S.C. §§ 49 and 50, which applies to
 13 the LMRDA under Section 601(b) of the LMRDA, 29 U.S.C. § 521(b), 29 U.S.C. §
 14 1331 (federal question jurisdiction) and 29 U.S.C. § 1345 (United States as plaintiff).

15 4. Venue is proper under 15 U.S.C. § 49 because OLMS is conducting an
 16 investigation of Local 872 within this judicial district.

17 **THE INVESTIGATION AND SUBPOENA**

18 5. Between May 15-17, 2018, OLMS received four Local 872 member
 19 complaints under Section 402 of the LMRDA, 29 U.S.C. § 482, protesting the election
 20 process for Local 872’s May 31, 2018 election of officers. The complaints alleged
 21 failure to provide proper notice of nominations, failure to provide reasonable opportunity
 22 to nominate, disparate candidate treatment, failure to follow Local 872’s Constitution
 23 and Bylaws, and unreasonable and improperly applied candidate qualification.
 24 Thereafter, OLMS, through its district office in Los Angeles, California, initiated an
 25 investigation of Local 872 under Sections 402 and 601 of the LMRDA, 29 U.S.C. §§
 26 482 and 521. The investigation seeks to determine based on the allegations raised
 27 whether any person associated with Local 872 violated or is violating any provisions of
 28 the LMRDA.

1 6. In the course of its investigation, OLMS sought to obtain relevant
2 documents and records and obtain background information about Local 872 and its
3 nominations process relating to Local 872's May 31, 2018 election of officers, which
4 information Local 872 is required to maintain under Section 401 of the LMRDA, 29
5 U.S.C. § 481.

6 7. Under Section 601 of the LMRDA, 29 U.S.C. § 521, the Secretary or his
7 designated officer is authorized to sign subpoenas, administer oaths and affirmations,
8 question witnesses, and inspect/receive records and evidence. The Secretary has
9 delegated authority to sign and issue administrative subpoenas to Regional Directors and
10 District Directors in OLMS.

11 8. As part of the investigation, on May 16, 2018, OLMS served the Subpoena,
12 by personal delivery on Thomas White, Local 872's Business Manager/Secretary-
13 Treasurer, seeking the documents and records described in the Subpoena relating to
14 Local 872's nomination process for its unsupervised election of officers scheduled to be
15 held on May 31, 2018. OLMS also requested interviews of Local 872 union officials.

16 9. The Subpoena required Local 872 to produce responsive documents and
17 records by May 23, 2018. Because the statute of limitations for bringing an action under
18 the LMRDA in U.S. district court is 60 days after a union member files a complaint with
19 the Agency, under Section 402 of the LMRDA, 29 U.S.C. § 482, return dates for
20 administrative subpoenas issued by OLMS under the LMRDA are expedited.

21 10. Commencing on May 21, 2018, Local 872, through its counsel, David A.
22 Rosenfeld, has refused to comply with the Subpoena or produce union official for
23 interview by OLMS objecting to the Agency's jurisdiction to investigate the members'
24 pre-election protests of the nomination process for Local 872's May 31, 2018 election.

25 11. Between June 1, 2018 and June 26, 2018, the Secretary and Local 872
26 attempted to reach an out-of-court resolution, but Local 872 was unwilling to produce
27 the documents and records requested by the Subpoena or present Local 872 union
28 officials for interview by OLMS.

RESPONDENT'S FAILURE TO COMPLY WITH THE SUBPOENA

12. To date, Local 872 has refused to comply with the Subpoena or present Local 872 union officials for interview by OLMS.

13. Local 872's failure to comply with the Subpoena or present Local 872 union officials for interview by OLMS has impeded and is impeding the Secretary's investigation, Sections 402 and 601 of the LMRDA, 29 U.S.C. §§ 482 and 521, of the Local 872 member administrative complaints protesting the nomination process for Local 872's May 31, 2018 election of officers.

14. Commencing on June 1, 2018, despite repeated requests by the Secretary, Local 872 has not agreed to execute a waiver of the statute of limitations in order to allow the parties' sufficient time to resolve their dispute regarding the documents requested by the Subpoena or present Local 872 union officials for interview by OLMS.

PRAYER FOR RELIEF

WHEREFORE, the Secretary prays this Court enter an Order to Show Cause requiring Local 872 to appear on a date certain to explain why it should not be required to produce the documents and records requested by the Subpoena, and order such other and further relief as may be necessary and appropriate. Further, because Local 872's failure to comply with the Subpoena has impeded the Secretary's investigation, the Secretary seeks an order tolling the statute of limitations on the Secretary's potential claims against Local 872 from May 16, 2018, the date Local 872 was served with the Subpoena, until full compliance by Local 872.

Dated: June 29, 2018.

Respectfully submitted,

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/s/ Luis A. Garcia

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